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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,188	01/25/2002	Timothy Roy Block	ROC920010309US1	5299
7590	08/11/2005		EXAMINER	
Gero G. McClellan Moser, Patterson & Sheridan, L.L.P. Suite 1500 3040 Post Oak Boulevard Houston, TX 77056-6582			DALENCOURT, YVES	
		ART UNIT	PAPER NUMBER	2157
DATE MAILED: 08/11/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/057,188	BLOCK ET AL.	
	Examiner	Art Unit	
	Yves Dalencourt	2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 25 January 2002.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-3,10,14-16 and 23 is/are rejected.
- 7) Claim(s) 4-9,11-13 and 17-22 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 25 January 2002 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

This office action is responsive to communication filed on 01/25/02.

Specification

The abstract of the disclosure is objected to because the term "The present invention" (lines 1, 2, 4, and 6) is redundant. It is suggested to start the abstract with ---A method for starting a node -----.

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 – 3, 10, 14 – 16, and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Strassburg et al (Pub. No.: US 2004/0139125; hereinafter Strassburg).

Regarding claims 1, 14 - 15, and 23, Strassburg teaches a method and computer program for starting a node in a clustered computer system (fig. 10), comprising the steps of assigning a starting state value to the node (paragraph [0128], lines 1 - 4); initiating an automated discovery process for discovering a sponsor node in the clustered computer system (paragraph [0128], lines 4 - 9); starting the node as a one-node cluster in the clustered computer system if no sponsor node is discovered (paragraph [0128], lines 9 - 14); joining the node into the clustered computer system if the sponsor node is discovered (paragraphs [0132] – [0137]); and assigning the node a state value of active by the clustering infrastructure (paragraph [0129] – [0130]).

Regarding claims 2, 3, and 16, Strassburg teaches the method and the computer program of claims 1 and 15, wherein the sponsor node has one of an active state value and a starting state value (paragraph [0129]).

Regarding claim 10, Strassburg teaches the method and the computer program of claim 1, wherein the sponsor node is discovered from a membership list containing all nodes in the clustered computer system (paragraph [0128]).

Allowable Subject Matter

Claims 4 – 9, 11 - 13 and 17 – 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: As specifically claimed, the art of record fail to teach among other limitations, in combination the steps of sending a cluster ping message to one or more potential sponsor nodes in the clustered computer system; receiving a response from the one or more potential sponsor nodes; selecting from the response the first potential sponsor node having a state value of active as the sponsor node to sponsor the node into joining the clustered computer system; and if no potential sponsor node having a state value of active responds to the cluster ping message, then selecting from the response a potential sponsor node having a state value of starting and having a name lower than the name of the node as the sponsor node.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Alfiery et al (US Patent Number 5,666,486) discloses a multiprocessor cluster membership manager framework.

Art Unit: 2157

Hossein Moiin (US Patent Number 6,108,699) discloses a system and method for modifying membership in a clustered distributed computer system and updating system configuration.

Slaughter et al (US 6,014,669) discloses a highly-available distributed cluster configuration database.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yves Dalencourt whose telephone number is (571) 272-3998. The examiner can normally be reached on M-TH 7:30AM - 6: 00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Yves Dalencourt

August 4, 2005